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Fax Cover Sheet

Date: -40 Jan 2003 1/14/03

To: Ms. Carrie	From: Mrs. D. To
Application/Control Number: 09/102,939	Art Unit: 2655
Fax No.: 202-429-4564	Phone No.: 703-305-4827
Voice No.: 202-429-4560	Return Fax No.: (703) 872-9314
Re:	CC:
<input type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> For Comment <input type="checkbox"/> For Reply <input checked="" type="checkbox"/> Per Your Request	

Comments:

As requested, a courtesy copy of Advisory Action mailed 1/10/03.

Number of pages 4 including this page

STATEMENT OF CONFIDENTIALITY

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/102,939	06/23/1998	MARTIN BICHSEL	P/1336-101	2391

2352 7590 01/10/2003

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

EXAMINER

OPSASNICK, MICHAEL N

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 01/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.	09/102,939	Applicant(s)	BISCHEL
Examiner	Michael N. Opsasnick	Art Unit	2655

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 December 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) The period for reply expires 3 months from the mailing date of the final rejection.
b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. The proposed amendment(s) will not be entered because:
(a) they raise new issues that would require further consideration and/or search (see NOTE below);
(b) they raise the issue of new matter (see Note below);
(c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. Applicant's reply has overcome the following rejection(s): _____.
4. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 2-22, 27-55, 59 and 60.

Claim(s) withdrawn from consideration: _____.

8. The proposed drawing correction filed on 12/10/03 is a) approved or b) disapproved by the Examiner.

9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____. *11/03/2*

10. Other: _____. *11/9/03*

DORIS H. TO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Continuation of 5. does NOT place the application in condition for allowance because: applicant's statement (in the response received on June 17,2002) states that the scope of claim 60 is the same as originally filed claim 1. The scope of claim 1 pertains to a " method for compressing an electric audio signal" which is produced in a process of recording ambient noise. In the scope of claim 1, 'recording ambient noise' has no patentable weight; and by applicant's reasoning of similar scope between claim 1 and claim 60, neither does claim 60. If applicant submits a statement that negates the 'similar scope' statement between claim 1 and 60, then the claim language "recording samples of ambient noise" in claim 60 will have patentable weight; however, this would constitute further consideration and search; nonetheless, the Kenyon reference would be overcome.